

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

X Chapter 11

Genever Holdings LLC,

Case No. 20-12411 (JLG)

Debtor.

X

**DECLARATION OF DISINTERESTEDNESS
BY MELANIE L. CYGANOWSKI**

I, Melanie L. Cyganowski, pursuant to 28 U.S.C. § 1746, hereby declare that the following is true to the best of my knowledge, information and belief:

1. I am a member of the law firm of Otterbourg P.C. (“Otterbourg”). Between March 1, 1993 and February 28, 2007, I served as a United States Bankruptcy Judge in the Eastern District of New York, and as Chief Judge between November 25, 2005 and February 28, 2007, at which time I retired from the Court at the end of my full term.
2. Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein.
3. I am a person eligible and competent to perform the duties as the duly appointed sales officer for the Debtor’s Bankruptcy Estate (“Sales Officer”) in the above-captioned case pursuant to 11 U.S.C. §§ 105 and 363. My qualifications to perform the required functions of a Sales Officer in this case is evidenced by my Curriculum Vitae, attached hereto as **Exhibit A**.

My Qualifications to Serve as Sales Officer

4. I believe my judicial and attorney experience make me highly qualified for the Sales Officer role. Prior to the bankruptcy filing, the Debtor was involved in certain litigation disputes. The parties have selected me as a highly respected and experienced person who is independent and can oversee the sale of the 18th floor apartment and auxiliary units in the Sherry Netherland Hotel located at 781 Fifth Avenue, New York, New York 10022 (the “Residence”).

Serving as Sales Officer in Genever Holdings LLC

5. By this Declaration, I accept the appointment to serve as the Sales Officer in this case and agree to comply with the provisions and requirements of 11 U.S.C. §§ 105 and 363.

6. At the present time, my standard hourly rate is \$1,400.00. Although my firm Otterbourg P.C. (“Otterbourg”), is not being separately retained, I will be assisted by a junior lawyer and paralegal and, from time to time if required, by one or more senior lawyers (collectively, the “Assisting Personnel”) as needed and where appropriate in furtherance of my performance as Sales Officer. The junior lawyer and paralegal will be compensated on an hourly basis predicated on a current billing rate of \$450 per hour and \$325 per hour, respectively, and the senior lawyers (if required) will be compensated on an hourly basis predicated on a current billing rate ranging from \$450 per hour to \$850 per hour.

7. My compensation and the compensation of the Assisting Personnel shall be paid from sale proceeds generated from the sale of the Residence. I along with the Assisting Personnel shall maintain time sheets and daily billings which identify the time incurred and services provided through reasonably detailed descriptions. The status of accrued time charges shall be filed with the Court monthly upon notice to parties having filed notices of appearance and the U.S. Trustee.

8. To the best of my knowledge, I am a disinterested person as defined in 11 U.S.C. § 101(14), and I do not hold, nor do I represent any material interest adverse to this bankruptcy estate.

9. With respect to my “disinterestedness” under Section 101(14) of the Bankruptcy Code, I provide the following information:

- (a) I am not, and have not been during the pendency of this chapter 11 case, a creditor, equity security holder or insider of the Debtor.
- (b) I am not, and have not been, a director, officer or employee of the Debtor.
- (c) I do not have an interest materially adverse to the interests of this bankruptcy estate or any class of creditors or equity security holders by reason of any direct or indirect relationship to, connection with or interest in the Debtors, or for any other reason.
- (d) I am not a relative of any Bankruptcy Judge of the United States Bankruptcy Court for the Southern District of New York.

10. In connection with my proposed appointment as Sales Officer, I have asked Otterbourg to perform a computerized search of its records for the Debtors, their professionals, and other parties in interest based upon a review of the Docket and pleadings filed in these cases to determine if any conflicts of interest would result from my appointment. **Exhibit B** contains a list of the parties searched by Otterbourg.

11. Based upon this review, I respectfully represent that to the best of my knowledge, I do not personally have any connection with any interested party in these cases, except that Otterbourg and I may have worked or are working with other professionals involved in the Debtor’s case in other cases in which Otterbourg or I were or are involved (as a professional to a client, co-counsel, as a retained expert, as an adversary, or as a retained professional). I do not believe that any of these

professional connections will in any way affect or compromise my disinterestedness as Sales Officer in this case.

12. I do not believe that any of these connections of Otterbourg will in any way affect or compromise my disinterestedness as Sales Officer in this case. If I discover any information that is contrary to or pertinent to the statements made herein, I will promptly disclose such information to the Court by filing and serving a supplemental declaration on the Office of the United States Trustee, counsel to the Debtors and all parties who have filed a notice of appearance in this case.

13. To ensure that as Sales Officer I will remain disinterested throughout the term of this appointment, I represent that Otterbourg also agrees that it will not represent any client other than me as Sales Officer in connection with this case.

14. As required by Section 504 of the Bankruptcy Code, neither Otterbourg nor I have agreed to share any compensation or reimbursement received in connection with this case with another person except pursuant to the corporate documents of Otterbourg.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 12th day of April, 2021, at New York, NY.

/s/ Melanie. L. Cyganowski
Melanie L. Cyganowski

EXHIBIT A

MELANIE L. CYGANOWSKI
Member of the Firm
Otterbourg P.C.

Direct No. 212.905.3677
Cell No. 917.496.3670

Fax No. 212.682.6104
MCyganowski@Otterbourg.com

Otterbourg P.C., 230 Park Avenue, New York, NY 10169-0075. Member of the Firm. June 16, 2008 to present. Chair of Bankruptcy & Restructuring practice area. Bankruptcy law and Bankruptcy litigation; counsel to Official Committees of Unsecured Creditors; fiduciary appointments; mediation; arbitration; general commercial, federal court and complex litigation; expert witness; legal ethics.

Greenberg Traurig, LLP, The MetLife Building, 200 Park Avenue, New York, NY 10166. Shareholder and Chair of the New York Office Bankruptcy Litigation Practice. March 1, 2007 to June 2, 2008. Bankruptcy law and Bankruptcy litigation; mediation; legal ethics.

United States Bankruptcy Judge, Eastern District of New York, United States Bankruptcy Court, The Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, NY 11722. Appointed on March 1, 1993 through February 28, 2007. Appointed as Chief Judge of the Bankruptcy Court on November 29, 2005. Presided over thousands of commercial and individual bankruptcy cases and published numerous opinions; mediations.

St. John's University, School of Law, 8000 Utopia Parkway, Jamaica, NY 11439. Adjunct Professor (part-time), LL.M. Program in Bankruptcy. January 2001 to present. Bankruptcy Ethics, Fraud & Malpractice; Chapter 11 Corporate Reorganization; Interrelationship of Domestic Relations & Bankruptcy; Bankruptcy Litigation.

Milbank, Tweed, Hadley & McCloy, 1 Chase Manhattan Plaza, New York, NY 10005. Senior Attorney, Litigation. May, 1989 to February, 1993. General commercial law; contract, partnership and business law disputes; federal court and complex litigation; Bankruptcy law and lender liability litigation.

Sullivan & Cromwell, 125 Broad, New York, NY 10004. Litigation Associate. 1982 to May, 1989. Federal court and complex litigation; general commercial, insurance and contract law disputes; mergers & acquisition litigation; securities regulatory compliance and securities litigation.

United States District Court, Southern District of New York, Foley Square, New York, NY 10007. Law Clerk, Honorable Charles L. Brieant; 1981 to 1982.

Hodgson, Russ, Andrews, Wood & Goodyear, Buffalo, NY. Summer Associate, 1980.

Broadway-Fillmore Area Council, Inc., Buffalo, NY. Director, Individual Referral Program funded by CETA Title I; 1978 to 1979. Procured and administered grants exceeding \$800,000 annually.

City of Buffalo, Departments of Community Development and Human Resources, Buffalo, NY. Program Planning Coordinator, Planner & Consultant, 1974 to 1978. Coordinated East Buffalo's comprehensive development plan and its designation as the first nationally recognized SBA loan program area and the implementation of \$1 million EDA commercial beautification program.

EDUCATION

Faculty of Law & Jurisprudence, State University of New York at Buffalo. J.D., *magna cum laude*, May, 1981. Sea Grant Fellow, 1979. Award of Distinction in Law and Public Education, 1981. **Buffalo Law Review**: Senior Editor, 1980-81; Associate, 1979-80. Co-author, *Survey: The Buffalo Polish-American Legal Experience*, **Buffalo Law Review**, Vol. 30, No. 1 (1981). **Buffalo Law Journal**, Abstract Writer, 1979-80.

Cornell University, Department of Anthropology, Ithaca, NY Graduate studies in Ph.D. program in urban development, 1975.

Grinnell College, Grinnell, Iowa. A.B., with Honors in Anthropology, May 1974. Grinnell Honor Scholar.

AWARDS/HONORS

Best Lawyers in America: Bankruptcy and Creditor Rights/Insolvency and Reorganization Law (2020)
Best Lawyers in America: Commercial Litigation (2020)
Americas Women in Business Law Award: Best in Restructuring and Insolvency (2020)
Lawdragon 500 Leading Global Restructuring & Insolvency Lawyers (2020)
Lawdragon 500 Leading U.S. Bankruptcy & Restructuring Lawyers (2020)
New York Law Journal: Distinguished Leaders (November 2019)
New York Institute of Credit, Women's Division: The Honorable Cecelia Goetz Award, 2019 Recipient (Feb. 2019)
Crain's New York inaugural "Leading Women Lawyers in New York" list (2018)
National Law Journal: Top 75 Outstanding Women Lawyers in US (2015)
New York Institute of Credit, Future Leaders Division: The Honorable Burton R. Lifland Mentor of the Year Award, 2016 Recipient (2016)
Super Lawyers: Top 50 Women Attorneys in New York Metro Area (2012--)
Super Lawyers: Top 100 Attorneys in New York Metro Area (2016--)
Super Lawyers, Bankruptcy (2007--)
The Best Lawyers in America in Business Reorganization and Commercial Litigation (2012--)
Fellow, American College of Bankruptcy (2014--)
Fellow, Litigation Counsel of America (2016--)
Fellow, American Bar Foundation (2004--)
Fellow, New York State Bar Foundation (2004--)
Turnaround Award Healthcare: Interfaith Medical Center (2015)
United States Marshal Special Recognition Award, Crest Hollow Country Club, Westbury, NY (2007)
New York Institute of Credit, Trustee's Award, Hilton Hotel, New York, NY (2007)
New York State Bar Association, Commercial & Federal Litigation Section, "Hail to the Chiefs" Award, Lincoln Center, New York, NY (2006)
Turnaround Management Association Award, Melville, NY (2006)
Alumni Wall of Fame, East Leyden High School, Franklin Park, IL (1998)
Citizen of the Year Award in Law, Am-Pol Eagle, Buffalo, NY (1994)

ADMISSIONS

Admitted to Practice: Supreme Court of the United States; United States Court of Appeals for the Second Circuit and Third Circuit; United States District Courts for the Eastern, Southern and Western Districts of New York; United States District Court for the District of Columbia; United States District Court for the District of Connecticut; United States District Court for the District of New Jersey; United States Court of Federal Claims; Courts of the State of New York

Appointed to the Mediation Registers of the United States Bankruptcy Courts for the Southern District of New York, New Jersey and Delaware

Appointed by the Chief Judge of the Southern District of New York as Member of the Grievance Committee (2016-)

ASSOCIATIONS & MEMBERSHIPS

American Bankruptcy Institute

American Bar Association

Bar Association of the City of New York: Alternative Dispute Committee (2011-2015) and Secretary (2012-2015); Judiciary Committee (2008-2010); Bankruptcy Committee (2009-2010) (2016-2020)

Federal Bar Council: Board of Trustees (2015-2020) and Secretary (2017-2020); Audit Committee (2019-2021)

National Association of Federal Equity Receivers (NAFER), Full Member (2018--)

National Conference of Bankruptcy Judges: member (1993--)

New York Institute of Credit: Member & Vice President of Executive Committee of the Board of Directors (2015--);
Board of Directors (2007--), Vice President, NYIC Women's Division (2007--)

New York State-Federal Judicial Council: Member (2016--)

New York State Bar Association: Commercial & Federal Litigation Section: Chair, Nomination Committee (1993-2019); Treasurer (1992-1993); Chair, Committee on Federal Judiciary (1990-1992); Member of the Executive Committee (1989-2019); Member of the ADR Committee (2013--); Member of the Committee on Federal Legislative Priorities (2012-2016)

Norton Journal of Bankruptcy Law & Practice, Member, Editorial Advisory Board (Thomson Reuters) (2015--)

Second Circuit Federal-State Advisory Council: member (2016--)

Tina's Wish Leadership Council Member (2014--) (Foundation for ovarian cancer research)

Turnaround Management Association

FIDUCIARY APPOINTMENTS

Receiverships:

- *Securities and Exchange Commission v. Platinum Management (NY) LLC, et al.*, Case No. 16-6848 (United States District Court for the Eastern District of New York) (Receiver)
- *Ross v. Thomas*, Case No. 09-cv-05631 (SDNY) (Receiver)
- *JPMorgan Chase Bank, N.A. v. Global Capital Services LLC*, 11-cv-01648 (SDNY) (Receiver)
- *Bank of America, N.A., as Trustee, et al., v. PCV St Owner LP, et al.*, 10 Civ. 1178 (SDNY) (Referee) (aka Stuyvesant/Peter Cooper Village foreclosure)

Special Master/Discovery:

- *Neogenix Oncology, Inc. v. Peter Gordon, et al.*, Case No. 14-CV-04427 (EDNY) (Special Master Discovery)
- *In re Vivendi*, Case No. 5571 (SDNY) (Special Master) (Securities class action)
- *In re Orion HealthCorp., Inc., et al.*, Case No. 18-71748 (AST) (Bankr. EDNY) (Court Appointed Expert, Discovery)
- *Picard v. Merkin*, Adv. Pro. No. 09-1182 (Bankr. SDNY) (Arbitrator of e-discovery disputes)

Health Care Appointments:

- *Interfaith Medical Center*, CRO and Temporary Operator (NYS Commissioner of Health Appointment)
- *In re Randolph Hospital, Inc.*, Case No. 20-10247 (Bankr. MD NC) (Patient Care Ombudsman)
- *In re Promise Healthcare Group, LLC, et al.*, Case No. 18-12491 (CSS) (Bankr. Del.) (Patient Care Ombudsman)
- *In re 4 West Holdings LLC (a/k/a Orianna Health Systems, et al.)*, Case No. 18-30777 (Bankr. ND Texas) (Patient Care Ombudsman)
- *In re 21st Century Oncology Holdings, Inc.*, Case No. 17-22770 (Bankr. SDNY) (Patient Care Ombudsman)
- *California Proton Treatment Center, LLC*, Case No. 17-10477 (Bankr. DE) (Patient Care Ombudsman)
- *Place for Achieving Total Health Medical, P.C.*, Case No. 17-13478 (MKV) (Bankr. SDNY) (Chapter 11 Trustee)
- *Mill River Foundation, Inc.*, Case No. 12-50306 (Bankr. D. CT) (Chapter 11 & 7 Trustee)
- *Batavia Nursing Home, LLC*, Case No. 11-13223 (Bankr. WDNY) (Chapter 11 Trustee)
- *Geriatric Realty Corp.*, Case No. 11-13225 (Bankr. WDNY) (Chapter 11 Trustee)
- **Auditor:**
• *U.S. Trustee v. Capital One*, Adv. Pro. No. 08-012720 (Bankr. D. Mass) (Auditor)

Trustee Appointments:

- *Biolitec, Inc.*, Case No. 13-11157 (DHS) (Bankr. NJ) (Chapter 11 & 7 Trustee)
- [Healthcare trustee appointments noted above]
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SIGNIFICANT CLIENT REPRESENTATIONS

- *In re Purdue Pharma LP*, Case No. 19-23649-rdd (Counsel to the Ad Hoc Committee of Governmental Entities)
- *In re: General Motors LLC Ignition Switch Litigation – MDL*, Case No. 1:14-md-0253-JMF (SDNY) (Member of Plaintiffs Executive Committee of MDL)
- *In re Blue Dog*, Chapter 11 Case No. 15-10694-mew (SDNY) (Debtor's Counsel)
- *In re Gramercy Group Inc.*, Chapter 11 Case No. 19-73622-las (EDNY) (Debtor's Counsel)

- *In re Navillus Tile, Inc., dba Navillus Contracting*, Chapter 11 Case No. 17-13162 (SHL) (Bankr. SDNY) (Debtors' Special Counsel)
- *In re New York Crane & Equipment Corp., et al.*, Chapter 11 Case No. 16-40043, et. seq. (CEC) (Bankr. EDNY) (Debtors' counsel)
- *In re Quirky, Inc., et al.*, No. 15-12596 (MG) (Bankr. SDNY) (Committee of Unsecured Creditors)
- *In re Simon Posen*, No. 15-12859 (MEW) (Bankr. SDNY) (Debtor's counsel)
- *In re Sammy Eljamal*, No. 15-22872 (RDD) (Bankr. SDNY) (Committee of Unsecured Creditors)
- *In re Downey Financial Corp.*, No. 08-13041 (Bankr. D. Del.) (FDIC)
- *In re DPH Holdings Corp.*, No. 10-4170-bk (2d Cir.) (State of Michigan Workers' Compensation Insurance Agency and State of Michigan Funds Administration)
- *In re Escada (USA) Inc.*, Case No. 09-15008 (Bkcy SDNY) (Committee of Unsecured Creditors)
- *In re General Motors Corp.*, Case No. 09-50026 (REG) (Bkcy SDNY) (Ally Financial Corp.)
- *In re Greatwide Logistic Services*, Case No. 08-12430 (Bkcy D. Del.) (Committee of Unsecured Creditors)
- *Guaranty Financial Group Inc. v. FDIC*, 10-cv-00980 (ND Tex.) (FDIC)
- *Claybrook v. United States*, 10-cv-00734 (Court of Federal Claims) (FDIC)
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EXPERT TESTIMONY

- *The Federal Mogul Asbestos Personal Injury Trust v. The Federal Mogul Limited (formerly named T&N PLC, et al.*, Claim No. 2012 Folio 1093 (High Court of Justice, Queen's Bench Division, Commercial Division) (United Kingdom)
- *Fairfield Sentry Limited (In Liquidation)*, Claim No: BVIHC (COM) 133/2011 (High Court of Justice, British Virgin Islands, Commercial Division)
- *In re ICP Strategic Credit Income Fund Ltd and In re ICP Strategic Credit Income Master Fund Ltd.*, Cause Nos. FSD 82 & FSD 269 of 2010 (Grand Court of the Cayman Islands, Financial Services Division)
- *In re Insigma Technology Co., Ltd and In re Section 216 of the Companies Ordinance, Cap. 32 of the Laws of Hong Kong Special Administrative Region*, No. 224 of 2013 (High Court of the Hong Kong Special Administrative Region, Court of First Instance, Companies Winding-Up (Hong Kong))
- *In re SphinX Group of Companies*, Cause No. 258 of 2006 (Grand Court of the Cayman Islands, Financial Services Division)
- *In re Vitro, S.A.B. de C.V.*, (Federal District Court for Civil and Labor Matters for the State of Nuevo León, the United Mexican States)
- *Vornado v. Stop 'n Shop*, Index No. 105819/03 (Supreme Court of the State of New York, New York County)
- *Miller v. Kluger, Kaplan, Silverman, Katzen & Levine, et al.*, Case No. 32-194-Y-00500-11 (American Arbitration Association, Miami, FL)
- *Aris Mardirossian and ARL LLC, et al., v. Miller Miller & Canby* (American Arbitration Association, MD)
- *Standard Chartered Bank of New York re Lehman Brothers Holdings, Inc.* (Philippines)
- *US Bank, NA, et al., v. 2150 Joshua's Path PLLC, et al.*, Case No. 13-1598 (GRB) (EDNY)

EXHIBIT B

LIST OF SEARCHED PARTIES

Debtor

- Genever Holdings LLC

Parties in Interest/Creditors

- Yanping Wang
- Qiang Guo
- Kwok Ho
 - a/k/a Miles Kwok
 - a/k/a Kwok Ho Wan
 - a/k/a Gwo Wen Gui
 - a/k/a Guo Wengui
 - a/k/a Guo Wen-Gui
 - a/k/a Wan Gue Haoyun
 - a/k/a Haoyun Guo
- Bravo Luck Limited
- Pacific Alliance Asia Opportunity Fund
- The Sherry-Netherlands Apartments
- The Sherry-Netherland, Inc.
- The Sherry- Netherland Hotel
- Genever Holdings Corporation
- Romer Debbas LLP
- Golden Spring New York Ltd

Judge and US Trustee and Other Professionals

- Goldberg Weprin Finkel Goldstein LLP
- Janover LLC
- Foley & Lardner LLP
- O'Melveny & Myers LLP
- Troutman Pepper Hamilton Sanders LLP
- Lawall & Mitchell LLC
- Stroock & Stroock & Lavan LLP
- Judge James L. Garrity
- Richard C. Morrissey